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ABSTRACT

Written for parents of handicapped children, the booklet discusses parental rights, privileges, and responsibilities in seven areas: notice, comprehensive individual assessment, individual educational plan, educational placement, educational records, consent, and hearings and appeals. A brief glossary of terms is included, and a diagram illustrates the child-centered educational process from referral through review of the individual education plan. (CI)

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EDUCATIONAL RIGHTS OF YOUR HANDICAPPED CHILD

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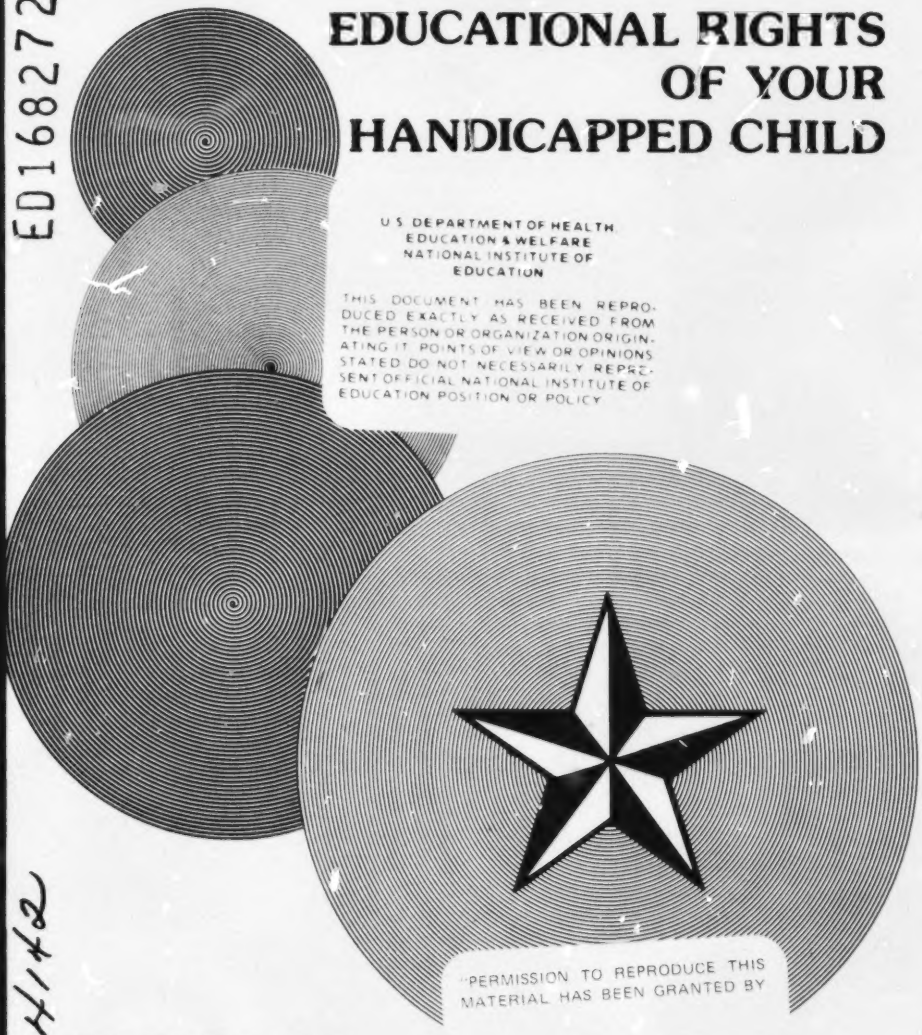

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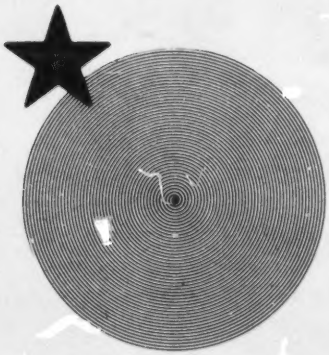

Department of Special Education
Texas Education Agency
201 East 11th Street
Austin, Texas 78701

January 1979

FOREWORD

As laws and policies change, school districts continue to share current information with parents concerning educational opportunities for students in public schools.

This booklet is written specifically for you as a parent of a handicapped child to let you know about the rights, privileges, and responsibilities that you and your child have in the educational process. These rights, privileges, and responsibilities are described in seven major sections as follows:

Notice
Comprehensive Individual Assessment
Individual Educational Plan
Educational Placement
Educational Records
Consent
Hearings and Appeals

Some of the terms used in the booklet are defined on the next pages. To improve communication with the public, terms throughout the booklet are functionally defined rather than quoted from other documents.

The purpose for producing this booklet is to help parents and school personnel as they continue to work together in providing the best education for children. As new information and interpretations are available, the booklet will be revised. Feel free to call the local school district if you have questions or wish to discuss any of this information. The telephone number is listed at the end of the booklet.

WHAT DO THESE TERMS MEAN?

The word parent as used in this booklet means legal parents, guardians, or persons having lawful control of the child.

Handicapped Students

In general, handicapped students who *need* special education are defined as students, ages 3 through 21, with educational handicaps who are physically handicapped, mentally retarded, emotionally disturbed, language and/or learning disabled, speech handicapped, or pregnant. Students, from birth through age 22, with serious visual or hearing handicaps or a combination of both are also considered handicapped and may be in need of special education.

Free Appropriate Public Education

A free appropriate public education for handicapped students is special education and related services provided through the public school at the preschool, elementary, and secondary levels at no cost to parents. The programs and services provided meet the standards set by the state and follow goals and objectives stated in the student's individual educational plan.

Special Education

Special education consists of specially designed educational and supportive services provided as *part* of each handicapped student's total educational program.

The Child-Centered Educational Process

The child-centered educational process includes all of those services that can be provided a student from the first time it is felt that the student may need special education to the time

that he or she no longer needs special education or completes the public school program.

The following drawing defines each part of the child-centered process and shows the order in which the student may receive the services.

***Identification**

*The referral committee may decide that the student needs services from some other school program and may not refer the child for assessment.

When it is felt that a child may need the help of special education, the referral committee meets to consider the ways in which the student's educational needs may be met. The committee may plan for the student to receive a comprehensive individual assessment.

Individual Assessment

Individual assessment occurs when a student is tested and observed to find out about his or her educational strengths and needs. Individual assessment helps the school personnel and parent make the best possible *educational plan* for the student.

*The ARD committee may decide that a student does not need special education.

***Individual Educational Plan**

The individual educational plan (IEP) is developed by the admission, review, and dismissal (ARD) committee including the parent. As part of the ARD committee, you help to decide if your child is *eligible* and *needs* special education and, if so, in what kind of special education class he or she should be *placed*.

The IEP also states in writing *what services* your child needs and *how* those services will be provided. The IEP is the guide for everyone to use who works with your child.

Instruction

Special education instruction carries out the IEP in the classroom by providing day-to-day teaching and learning situations to meet each student's needs. Instruction is provided primarily by teachers and teacher aides.

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Related Services

Related services are provided along with instruction if your child needs them to help him or her to benefit from special education instruction. There are many different kinds of related services including physical or occupational therapy, counseling, psychological services, and special transportation, etc.

Review of the Individual Educational Plan

If your child is placed in special education, individual progress will be reviewed every three months by the personnel working with him or her. Once each year the ARD committee will meet with you and decide if any changes need to be made in your child's educational program. At least every three years, your child will be completely tested again so that the school can be sure he or she is being provided the education needed.

An Impartial Hearing Officer

An Impartial Hearing Officer is a lawyer appointed by the Commissioner of Education to hear appeals involving handicapped students. The hearing officer has no connection with the school district. The independent functions of the hearing officer are to conduct a hearing and recommend a decision concerning the problem. The recommendation is submitted to the school board and, in the event of further appeal from the board's decision, to the Commissioner of Education.

NOTICE

As the parent of a handicapped child, you have a right to:

- receive all notices about your child's special education program in writing and in your primary language.
- have all notices about your child's special education program explained to you.
- know *when* the school district *begins or changes* the identification, assessment, or educational placement of your child.
- know *why* the school district *begins or changes* the identification, assessment, or educational placement of your child.
- know *if* the school district *refuses* to *begin or change* the identification, assessment, or educational placement of your child.
- know *why* the school district *refuses* to *begin or change* the identification, assessment, or educational placement of your child.
- know about each assessment procedure or test, report, record, and any other factor the school district uses to make a decision about your child.
- know why the child's special educational placement was chosen over other placements.

COMPREHENSIVE INDIVIDUAL ASSESSMENT

Your child has a right to:

- be tested in the language which he or she speaks and understands best.
- be tested in a manner in which test results are not affected by race or culture.
- a comprehensive individual assessment of all of his or her educational needs and abilities.
- be tested by qualified professionals with valid, proper tests. (You have a right to know what tests and assessment procedures are used and to have the results explained to you.)
- have the comprehensive individual assessment repeated at least every three years.

As the parent of a handicapped child, you have a right to obtain an assessment of your child's educational needs and abilities from qualified professionals of your choice at your own cost and to:

- have the information from that assessment included in any decision made about your child's school program.
- obtain information from the school as to where you can get an independent assessment.

If you disagree with all or part of the comprehensive individual assessment obtained by your school district, you may request the school district to provide for an independent assessment of your child. In this situation, the school district may either:

- request a hearing to show that its assessment information is appropriate or

- provide for the independent assessment at no cost to you.

If it is found at the hearing that the district's assessment was appropriate, then the district does not have to provide for the independent assessment. If it is found that the district's assessment was incomplete, the district may have to provide for additional, independent assessment at no cost to you.

INDIVIDUAL EDUCATIONAL PLAN

Each handicapped child has a right to an individual educational plan (IEP) based on his or her needs as found in the comprehensive individual assessment. The IEP must state:

- your child's present levels of educational performance.
- year-long goals and short-term objectives for reaching those goals.
- specific educational services through regular education, special education, and related services and the projected amount of time needed in each service to reach the goals and objectives for your child.
- projected dates for beginning and ending special education instruction and related services.
- plans to evaluate (check) your child's progress to see if the goals and objectives are being met.

The IEP will serve as a guide for providing the services your child needs. It is not a binding contract.

As the parent of a handicapped child, you have the right to:

- participate in the admission, review, and dismissal (ARD) committee meeting when your child's IEP is planned and written.
- take someone with you to the ARD committee meeting to assist or represent you in the decision-making work of the committee.

Your child, also, has a right to go to the ARD committee meeting when you and the school personnel think it would help the child.

If, for some reason, you cannot or choose not to go to the ARD committee meeting, you may ask for a telephone conference or another means of communication that you and the school personnel can agree upon.

If you ask, the school personnel will show you a copy of your child's IEP or make you a copy at cost.

EDUCATIONAL PLACEMENT

Each handicapped child has a right to:

- be placed in the educational setting which will allow for the development of his or her abilities in accordance with the needs stated in the individual educational plan.

- remain in the regular education classroom unless the nature or severity of the handicap is such that he or she cannot receive a satisfactory education in the regular classroom using additional materials, equipment, and services.

- be considered for a variety of educational placements, including placements in the local school, approved nonpublic schools, home instruction, special schools or institutions, or residential placements.

- be educated as much as possible with children who are not handicapped.

- be educated as close to home as possible.

- have the educational placement reviewed when the individual educational plan is changed. (Educational progress will be reviewed informally every three months. Placement will be reviewed at least annually by the admission, review, and dismissal committee when the individual educational plan is updated.)

- participate in extracurricular activities (such as school clubs, athletic activities, and musical groups), meals, and recess on the same basis as nonhandicapped children.

EDUCATIONAL RECORDS

As the parent of a handicapped child, you have a right to:

- know what records involving educational decision-making about your child are being collected, maintained, or used by the school district and where those records are located.

- inspect and review all records maintained on your child.

- make copies of your child's records at a reasonable cost.

- have someone at your child's school explain or interpret any item in your child's records.

- give consent before your child's records can be seen by someone not involved in the child's education.

- know who, other than the people involved in the child's education, has seen your child's records and why.

- ask for a change in your child's records if you think a statement is wrong or misleading.

  - ask for a hearing if the school refuses to change the statement.

  - add your own statement to the child's records if the statement in the records with which you disagree is decided to be accurate by the hearing.

- be informed when your child's records are no longer needed by the school district and notify the school district if you wish to have those records destroyed.

CONSENT

Your consent or permission is needed for important educational decisions affecting your handicapped child.

Your consent is voluntary (given freely) and can be withdrawn at any time.

Your consent is made only after you have been informed and when you understand the information and actions for which you are giving consent. Therefore, you need to ask questions if you do not understand a consent form.

You *must* give written consent before:

- your child receives a comprehensive individual assessment.
- your child is placed in a special education program.
- your child is changed from one special education placement to placement in another special education or general education program.
- your child's education records are given to a person not directly involved in the child's education.

If you refuse to give consent, the school district may request a hearing to see if the child should be assessed or placed without your consent. You have a right to go to the hearing and tell why you refuse to give consent.

HEARINGS AND APPEALS

Since you and the school staff both want the best for your child, you work together and, usually, can agree about the education of your child. If there is a time, however, when you and the school staff are not able to work together to solve problems about your child's education and you do not agree with what the school has decided or done, you have the right to *request a hearing*.

If a hearing is requested or an appeal is made, IT IS IMPORTANT that you know *what* steps to follow and *when* you must do certain things. You either can do these things yourself or can have them done by a lawyer or someone else you have chosen.

1. If you choose to request a hearing, the request must be filed *within 15 days* after the school makes a decision, fails to act, or takes an action with which you do not agree.

2. The request for a hearing must be made in writing and must explain why the request for a hearing is being made.

3. One copy of the request for a hearing should be addressed to the school district's Board of Trustees and mailed or taken to the superintendent's office *before the 15 days are up*.

4. Another copy of the request for a hearing must be sent to the Commissioner of Education *before the 15 days are up*. The address is:

   Dr. Marlin L. Brockette
   Commissioner of Education
   Texas Education Agency
   201 East 11th Street
   Austin, Texas 78701

5. Within 10 days after the request for a hearing is *received* by the Commissioner of Education, a hearing officer appointed by the Commissioner will hold the hearing nearby. During the hearing you will present your side of the problem to the hearing officer and the school district will present its side. It is recommended that you be represented by a lawyer since the Rules of Evidence will apply.

6. Within 15 days *after the hearing*, the hearing officer must give your school board a recommended decision and within 20 days *after the hearing* the school board must make a decision about the problem and tell you its decision.

7. If you do not agree with the school board's decision, you may appeal the decision to the Commissioner of Education. This appeal must be stated in writing and sent to the Commissioner of Education within five days after the school board has made its decision.

8. Within 15 days after the Commissioner of Education has received your written appeal of the school board's decision, the Commissioner must make a decision about the problem and give the decision to you and to the school board.

9. If you or the school do not agree with the Commissioner of Education's decision, the decision may be appealed to the State Board of Education. This must be done in writing within *five days* after the Commissioner's decision is received. The address is:

   State Board of Education
   Texas Education Agency
   201 East 11th Street
   Austin, Texas 78701

10. The State Board of Education must meet, make a decision, and notify you and the school district within 30 days after they receive the appeal from you or the school district.

These 10 steps give you general information only about the major points to follow in the hearings and appeals process. If there is good cause, extensions of time deadlines are generally available upon timely written request. If you decide to request a hearing, there are other rights and time deadlines you need to know about. A complete copy of the Procedures on Hearings and Appeals can be requested from the Office of General Counsel, Texas Education Agency, 201 East 11th Street, Austin, Texas 78701, or by calling (512) 475-3272. To receive more information, you may call your school district.

PLEASE REMEMBER TO:

Keep good records

It is important for both parents and school personnel to keep accurate, complete, written records about the child which are useful in making decisions about the child's handicap, educational program, and progress in the program.

Ask questions

If you want to know more about the information in this booklet or about the education of your handicapped child, feel free to ASK QUESTIONS!! First, call or write your local school district to receive answers to your questions. Then, if more information is still needed, you may wish to call the Texas Education Agency, Department of Special Education, Austin, Texas, (512) 475 3501 or 475-3507.